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Sten Pahlsson

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EXAMINER

HALL, COREY JOHN

ART UNIT

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4118

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,382	Applicant(s) PAHLSSON ET AL.	
	Examiner COREY HALL	Art Unit 4118	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/14/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 10, 12, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaxmar et al. (US Patent No. 4,480,535).
4. Regarding claims 1, 5, 10, 12, 13, and 15, Jaxmar et al. discloses an apparatus for treatment of foodstuffs (column 1, lines 1-2) capable of processing and drying, comprising an endless conveyor belt (abstract, line 2) which along part of its length follows a helical path to form a stack (figure 1, abstract, lines 4-5), said helical path defining a central space in the stack (figure 1), the conveyor belt having passages for letting a flow of a gaseous medium in the vertical (column 1, lines 66-68) as well as horizontal direction (column 2, lines 2-4) through the stack, an end portion of the stack, in which said stack is vertically surrounded by an encapsulation 3, 4 (figure 1, column 1, lines 49-50), a first supply of a first gaseous medium 12 (figure 1) to said central space (figure 1), and a second supply of a second gaseous medium 6 (figure 1) to said encapsulation 3, 4 (figure 1), said encapsulation being arranged to direct the flow of the second gaseous medium in such a manner that it is passed in the vertical direction

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(column 1, lines 66-68) from said encapsulation to the rest of the stack 5 (figure 1), said encapsulation 3, 4 (figure 1) being arranged at the upper part of the stack 5 (figure 1), a third end closure 13 (figure 1) is arranged against the lowermost turn formed in the stack, said third end closure 13 (figure 1) being arranged transversely of the central space (figure 1) defined by the conveyor belt, the conveying direction 14 (figure 1) of the conveyor belt is arranged towards the encapsulation 3, 4 (figure 1), the stack being arranged in a housing comprising an inlet 14 (figure 1) and an outlet 15 (figure 1) for the conveyor belt and the encapsulation has one outer 4 (figure 1) and one inner 3 (figure 1) circumferential wall having the same height (figure 1), vertically surrounding a portion of the stack (figure 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaxmar et al. (US Patent No. 4,480,535).

9. In regards to claim 17, Jaxmar et al. discloses the claimed invention including the encapsulation having one outer 4 (figure 1) and one inner 3 (figure 1) circumferential wall extending along the full height of the stack (figure 1) with the inner wall having openings or perforations along a portion of the stack (column 1, lines 57-59).

Jaxmar et al. discloses the claimed invention except for both walls having openings or perforations along a portion of the stack. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make both walls have perforations along a portion of the stack, for the purpose of increasing air flow into or out of the stack, since It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. In *re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

10. Claims 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaxmar et al. (US Patent No. 4,480,535) in view of Hwang (US Patent No. 5,078,120).

11. Regarding claims 18 and 22, Jaxmar et al. discloses (a) providing an endless conveyor belt (abstract, line 2) which along part of its length follows a helical path to form a stack (figure 1, abstract, lines 4-5), said conveyor belt having passages for letting a flow of a gaseous medium

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through the stack in the vertical 6 (figure 1) as well as the horizontal A (figure 1) directions, wherein: (i) the stack defining a central space (figure 1), and (ii) the stack comprising a lower non-encapsulated stack portion C (figure 1, column 1, lines 61-64) and, adjacent thereto, an upper stack portion (figure 1) which is encapsulated in the vertical direction by an encapsulation 3, 4 (figure 1), (b) supplying a flow of a first gaseous medium 12 (figure 1) to said central space (figure 1) for further conveyance to the non-encapsulated stack portion C (figure 1) through said passages for letting through a flow of a first gaseous medium in the horizontal direction A (figure 1), (c) supplying a flow of a second gaseous medium 6 (figure 1) to said upper encapsulated stack portion (figure 1), (d) wherein said encapsulation directing the flow of the second gaseous medium 6 (figure 1) in such a manner that it flows in an essentially vertical direction (figure 1) from said encapsulated stack portion to said non-encapsulated stack portion, and (e) the flow of the second gaseous medium 6 (figure 1), which enters the encapsulated stack portion and flows essentially vertically downwards (figure 1), affecting the flow of the first gaseous medium 12 (figure 1) which is conveyed to the non-encapsulated stack portion so that the first gaseous medium is prevented from flowing towards the encapsulated stack portion (figure 1) and arranging the conveyor belt in a conveying direction 14 (figure 1) towards the encapsulated stack portion, except for a method for treating foodstuffs for the purpose of processing and drying. However, Hwang teaches a method for cooking food products in an oven including a chamber having an inlet and outlet, a pervious conveyor belt extending in a helical path comprising the steps of providing a heated gaseous cooking medium and circulation (column 15, lines 10-17) in order to cook food products (column 15, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al.

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reference, to include a method for treating foodstuffs for the purpose of processing and drying, as suggested and taught by Hwang, for the purpose of cooking food products.

12. In regards to claims 19-21, Jaxmar et al. and Hwang disclose the claimed invention, including from Hwang a gaseous medium being humid water vapour (“high humidity or steam” column 9, lines 33-35), saturated or overheated steam (“steam may be supplied under pressure” column 9, lines 18-20) and the source of supply of steam heat comprises a fan (column 10, lines 18-22) in order to create a desired cooking environment within the cooking chamber (column 8, lines 51-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al. and Hwang references, to include the first gaseous medium being humid water vapour, the first gaseous medium being saturated water vapour, the second gaseous medium being overheated water vapour and the source of supply of humid water vapour or saturated water vapor comprises a fan, as suggested and taught by Hwang, for the purpose of creating a desired cooking environment within the cooking chamber.

13. Claims 2-4, 11, 14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaxmar et al. (US Patent No. 4,480,535) as applied to claim 1 above, and further in view of Hwang (US Patent No. 5,078,120).

14. In regards to claims 2-4, 11, and 23, Jaxmar et al. discloses the claimed invention, except for the first gaseous medium being humid water vapour, the first gaseous medium is saturated water vapour, the second gaseous medium being overheated water vapour and the source of supply of humid water vapour or saturated water vapor comprises a fan. However, Hwang teaches a gaseous medium being humid water vapour (“high humidity or steam” column 9, lines 33-35), saturated or overheated steam (“steam may be supplied under pressure” column 9, lines

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18-20) and the source of supply of steam heat comprises a fan (column 10, lines 18-22) in order to create a desired cooking environment within the cooking chamber (column 8, lines 51-53).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al. reference, to include the first gaseous medium being humid water vapour, the first gaseous medium being saturated water vapour, the second gaseous medium being overheated water vapour and the source of supply of humid water vapour or saturated water vapor comprises a fan, as suggested and taught by Hwang, for the purpose of creating a desired cooking environment within the cooking chamber.

15. In regards to claim 14, Jaxmar et al. discloses the claimed invention, except for the housing further comprising a drain for draining off condensed water vapour. However, Hwang teaches a drainage channel positioned in the middle of the chamber for continuous draining 52 (figure 4, column 8, lines 26-27) in order to allow food drippings to drain (column 8, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al. reference, to include the housing further comprising a drain for draining off condensed water vapour, as suggested and taught by Hwang, for the purpose of allowing food drippings to drain.

16. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaxmar et al. (US Patent No. 4,480,535) as applied to claim 1 above, and further in view of Kaufman, Jr. (US Patent No. 3,443,505).

17. In regards to claims 6 and 7, Jaxmar et al. discloses the claimed invention, except for a first end closure being arranged to cover the conveyor belt at the upper edge of the encapsulation and a second end closure being arranged over the central space. However, Kaufman, Jr. teaches

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a first end closure 54 (figure 4) being arranged to cover the conveyor belt at the upper edge of the encapsulation and a second end closure 52 (figure 4) being arranged over the central space in order to provide first and second conduits with adjustable openings to permit the control of air circulation and mixing (column 2, lines 31-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al. reference, to include a first end closure being arranged to cover the conveyor belt at the upper edge of the encapsulation and a second end closure being arranged over the central space, as suggested and taught by Kaufman, Jr., for the purpose of providing first and second conduits with adjustable openings to permit the control of air circulation and mixing.

18. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaxmar et al. (US Patent No. 4,480,535) as applied to claim 1 above, and further in view of Crump, III et al. (US Patent No. 5,515,775).

19. In regards to claims 8 and 9, Jaxmar et al. discloses the claimed invention, except for lateral pieces at a longitudinal edge of the conveyor belt form an outer wall of the stack, which defines the stack outwards in the radial direction and lateral pieces at a longitudinal edge of the conveyor belt form an inner wall of the stack which defines the stack inwards in the radial direction to define said central space. However, Crump, III et al. teaches lateral pieces 25 (figure 3) at a longitudinal edge of the conveyor belt 28 (figure 3) forming an outer wall 25 (figure 4) of the stack, which defines the stack outwards in the radial direction and lateral pieces 25 (figure 3) at a longitudinal edge of the conveyor belt 28 (figure 3) forming an inner wall 29 (figure 4) of the stack which defines the stack inwards in the radial direction to define said central space in order to form the inner wall and the outer wall (column 6, lines 44-46). Therefore, it would have

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been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al. reference, to include lateral pieces at a longitudinal edge of the conveyor belt form an outer wall of the stack, which defines the stack outwards in the radial direction and lateral pieces at a longitudinal edge of the conveyor belt form an inner wall of the stack which defines the stack inwards in the radial direction to define said central space, as suggested and taught by Crump, III et al., for the purpose of forming the inner wall and the outer wall.

20. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaxmar et al. (US Patent No. 4,480,535) as applied to claim 1 above, and further in view of Lang (US Patent No. 5,205,135).

21. In regards to claim 16, Jaxmar et al. discloses the claimed invention including the encapsulation has one outer circumferential wall extending vertically along the full height of the stack 4 (figure 1), except for one inner circumferential wall extending vertically along a portion of the stack, whereby said outer circumferential wall optionally has openings or perforations along the portion of the stack not covered by the inner circumferential wall. However, Lang teaches an inner circumferential wall 15j (figure 3) extending vertically along a portion of the stack 33a (figure 3), whereby said outer circumferential wall 37 (figure 3) has an opening 29 (figure 3) along the portion of the stack not covered 31 (figure 3) by the inner circumferential wall in order to allow air to enter the center of the stack. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Jaxmar et al. reference, to include one inner circumferential wall extending vertically along a portion of the stack, whereby said outer circumferential wall optionally has openings or perforations along the

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portion of the stack not covered by the inner circumferential wall, as suggested and taught by Lang, for the purpose of allowing air to enter the center of the stack.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY HALL whose telephone number is (571)270-7833. The examiner can normally be reached on Monday - Friday, 9AM to 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. H./
Examiner, Art Unit 4118

/Quang D. Thanh/
Supervisory Patent Examiner, Art Unit
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